



**A = Approved, A1 = Approved First Reading, A2 = Approved Second Reading, D = Deferred,  
NA = No Action, PH = Authorized Public Hearing, AD = Approval Denied**

## **ACTION AGENDA**

Hickory City Council  
76 North Center Street

November 16, 2021  
7:00 p.m.

- I. Call to Order
- II. Invocation by Reverend Jay Robison, Adjunct Religion Faculty Lenoir-Rhyne University
- III. Pledge of Allegiance
- IV. Special Presentations
  - NA** A. Neighborhood College Graduation – Presentation by Communications Specialist Sarah Killian  
  
Mayor Guess and Communications Specialist Sarah Killian presented diplomas to the Neighborhood College Graduates.
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
  - A** A. Regular Meeting of November 2, 2021. **(Exhibit VI.A.)**
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.
  - A2** A. Budget Revision Number 8. **(First Reading Vote: Ayes: Alderman Wood, Alderwoman Williams, Alderman Seaver, Alderman Zagaroli, Alderwoman Patton, and Mayor Guess. Nay: Alderman Williams. The motion passed 6-1.)**
  - A2** B. Proposed Amendments to Chapter 21, Section 21-10, Including Provisions Creating a Social District, to the Hickory City Code of Ordinances. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.
  - A** A. Approval of Awarding Retiring MPO Beatrice Behan with her Service Weapon upon her Retirement on November 30, 2021. **(Exhibit VIII.A.)**  
  
*Hickory Police Department requests City Council award retiring MPO Beatrice Behan her service weapon (Glock Model 17 - Serial # UHF160 and badge upon her retirement November 30, 2021. MPO Beatrice Behan will retire from the City of Hickory Police Department November 30, 2021, after completing approximately 22 years of qualifying service to the citizens of Hickory. By authority of North Carolina General Statutes, City Council may award the service weapon and police badge to MPO Beatrice Behan upon her retirement from Hickory Police Department. Upon approval from City Council, the police badge and service weapon will be declared surplus and removed from the City's*

*fixed asset inventory. Staff recommends approval of awarding the service weapon and police badge to MPO Beatrice Behan upon her retirement from Hickory Police Department.*

- A B. Approval of Awarding Retiring MPO David Freeman with his Service Weapon upon his Retirement on November 30, 2021. **(Exhibit VIII.B.)**

*Hickory Police Department requests City Council award retiring MPO David Freeman his service weapon (Glock Model 17 - Serial # UHF230 and badge upon his retirement November 30, 2021. MPO David Freeman will retire from the City of Hickory Police Department November 30, 2021, after completing approximately 15-years of qualifying service to the citizens of Hickory. By authority of NC General Statutes, City Council may award the service weapon and police badge to MPO David Freeman upon his retirement from Hickory Police Department. Upon approval from City Council, the police badge and service weapon will be declared surplus and removed from the City's fixed asset inventory. Staff recommends approval of awarding the service weapon and police badge to MPO David Freeman upon his retirement from Hickory Police Department.*

- A/PH C. Call for a Public Hearing for Consideration of a Voluntary Non-Contiguous Annexation of 13.384 Acres of Property Located Between 47<sup>th</sup> Avenue Place NE and 48<sup>th</sup> Avenue Land NE, PIN 3735-13-02-2954. **(Authorize Public Hearing for December 7, 2021, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building.) (Exhibit VIII.C.)**

- A D. Citizens' Advisory Committee Recommendation for Assistance through the City of Hickory's Housing Programs. **(Exhibit VIII.D.)**

*The following applicant was considered by the Citizens' Advisory Committee at their regular meeting on November 4, 2021; and is now being recommended for approval for assistance under the City of Hickory's 2021 Urgent Repair Program. This program provides qualified low-income citizens with assistance for emergency related repairs not to exceed \$10,000.*

➤ Gladys Scott, 602 9<sup>th</sup> Avenue Drive SE, Hickory – up to \$10,000.

*The Citizens' Advisory Committee recommends approval of the aforementioned request for assistance through the City of Hickory's housing assistance programs.*

- A1 E. Budget Revision Number 9. **(Exhibit VIII.E.)**

1. To appropriate \$6,500 from the sale of a Caterpillar D343 generator towards equipment maintenance and repair in the Central Services division of Public Services.
2. To roll forward unspent, earmarked appropriations from FY20-21 into Parks, Recreation, & Sports Tourism's FY21-22 budget to include the following activities: \$434 for Enrichment Activities, \$11,573 for Bill McDonald Scholarship program, \$1,792 for One Purpose Parks & Recreation Council; and \$16,796 for Senior Games.

IX. Items Removed from Consent Agenda

X. Informational Item

XI. New Business:

A. Public Hearings

- A1 1. Consideration of Proposed Amendments to Chapters and/or Chapter Sections of the Hickory Code of Ordinance based upon Requirements of Senate Bill 300 (S.L. 2021-138) – Presentation by Deputy City Attorney Arnita Dula. **(Exhibit XI.A.1.)**

On September 2, Governor Cooper signed into law Senate Bill 300 (S.L. 2021-138). Part XIII of the session law removes the presumption that all local ordinances may be enforced criminally as provided in N.C.G.S. 160A-175. It states that ordinances may be enforced criminally as provided in N.C.G.S. 14-4 "only if the city specifies such in the ordinance." It also includes a list of statutory sections in which cities cannot adopt ordinances with criminal penalties. Those sections include the following: planning and regulation of development; stream clearing programs; regulating businesses and trades; outdoor advertising; solar collectors; cisterns and rain barrels; taxis; setback lines; curb cut regulations and ordinances regulating trees. Section 1-9 of the Hickory Code of Ordinances states that "[a] violation of the following designated provisions of the Hickory Code and the Hickory Land Development Code shall be a misdemeanor as provided by G.S. 14-4(a), unless it is an infraction as provided by G.S. 14-4(b)." The ordinance then lists the specific chapters or chapter sections to which the penalty applies. This general listing is not in compliance with the requirement in Part XIII of S.L. 2021-138. The proposed amendments will add the language from Section 1-9 to designated ordinances. Adding this language will bring those sections into compliance with S.L. 2021-138 and permit enforcement of the criminal penalty. Staff recommends Council's approval of the addition of criminal penalty language to designated sections of the Hickory Code of Ordinances.

*This public hearing was advertised in a newspaper having general circulation in the Hickory area on November 5, 2021.*

**A**

2. Consideration of a Voluntary Contiguous Annexation of 1.948 Acres of Property Located at 2358, 2366, and 2380 Renwick Drive and an Unaddressed Adjacent Parcel, Identified as PINs 3711-12-85-8893; 3711-12-85-9903; 3711-12-86-9016; and 3711-12-85-8674 – Presentation by Planning Director Brian Frazier **(Exhibit XI.A.2.)**

*Consideration of the voluntary contiguous annexation of 1.948 acres of property located at 2358, 2366 and 2380 Renwick Drive and an unaddressed adjacent parcel. These properties are identified as PINs 3711-12-85-8893, 3711-12-85-9903, 3711-12-86-9016, and 3711-12-85-8674. Preston Land Holdings, LLC has petitioned for the voluntary contiguous annexation of 1.948 acres of property located at 2358, 2366 and 2380 Renwick Drive and an unaddressed adjacent parcel. The subject properties are currently located within Catawba County's jurisdiction and zoned R-20 Residential. The annexation is being requested to gain access to City services. The subject properties are currently vacant; however, the owners have indicated their intentions are to construct 15 single-family attached (townhome) units. The development area also includes additional property already located within Hickory City limits. Pending annexation, the owners have petitioned to have the properties rezoned to R-4 Residential. The R-4 district permits residential density at a rate of 12 units per acre for single-family attached (townhomes). The current tax value of the property is \$34,600. If annexed with its present value, the property would generate additional tax revenues of \$217. Once development is completed, tax value and revenues will increase. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.*

*This public hearing was advertised in a newspaper having general circulation in the Hickory area on November 5, 2021.*

**A1**

3. Consideration of Rezoning Petition 21-06 for Property Located at 2358, 2366, and 2380 Renwick Drive, Part of 3056 Short Road, and an Unaddressed Adjacent Parcel from Regional Commercial (C-3) and Catawba County R-20 to High Density Residential (R-4). **(Exhibit XI.A.3.)**

*A petition has been submitted requesting the consideration of rezoning property located at 2358, 2366 and 2380 Renwick Dr, part of 3056 Short Road, and an unaddressed adjacent parcel from Regional Commercial (C-3) and Catawba County R-20 to High Density Residential (R-4). The properties are currently zoned C-3 by the City of Hickory and R-20 by Catawba County. The part of the rezoning area under the current City C-3 zoning is 0.419 acres in size. The C-3 district permits development at a floor area ratio of 2:1 for non-residential uses or 30 units per acre for residential uses, which could theoretically yield 35,500 ft<sup>2</sup> of non-residential floor area, or 12 residential units. The part of the rezoning area under the current county zoning is 2.4 acres in size. The R-20 district permits single and two-family residential uses at a density of two (2) dwelling units per acre, which could theoretically yield 5 dwelling units. The subject properties are currently vacant; however, the owners intend to develop the properties for the purpose of constructing single-family attached dwellings (townhomes). The requested zoning, R-4, permits residential density at a rate of 12 units per acre for single-family attached (townhomes). Given the area, 2.83 acres, the rezoning area could theoretically yield 34 dwelling units. The Hickory Regional Planning Commission conducted a public hearing on October 27, 2021, to consider the petition. During the public hearing, the agent for the development group gave an overview of the project. One neighboring resident asked questions about the petition but did not voice opposition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition's inconsistency with the Hickory by Choice 2030 Comprehensive Plan, but found the petition was reasonable and protected the public's interest and safety. Based upon these findings, the Hickory Regional Planning Commission voted unanimously (8-0) to recommend approval of the petition. Staff concurs with the recommendation of the Hickory Regional Planning Commission.*

*This public hearing was advertised in a newspaper having general circulation in the Hickory area on November 5, and November 12, 2021.*

B. Departmental Reports

NA 1. Quarterly Financial Report – Presentation by Deputy City Manager Rodney Miller

A 2. Appointments to Boards and Commissions

**CITIZENS ADVISORY COMMITTEE**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Small Cities Project Area

VACANT

**COMMUNITY APPEARANCE COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 4 (Alderman William Appoints)  
At-Large (Outside City but within HRP) (Council Appoints)

VACANT

VACANT

Alderman Williams nominated Delores Deal as Ward 4 Representative on the Community Appearance Commission.

**COMMUNITY RELATIONS COUNCIL**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

Differently Abled and is African American or Other Minority (Council Appoints)

VACANT

Differently Abled (Council Appoints)

Beth Whicker

(Not Eligible for Reappointment)

### **HISTORIC PRESERVATION COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Licensed Architect (Council Appoints)

At-Large (2)(Council Appoints)  
(Eligible for Reappointment/Does Not Wish to Serve Again)

Ernie Sills  
(Not Eligible for Reappointment)

Mary Moorer

### **LIBRARY ADVISORY BOARD**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 3 (Seaver Appoints)

Ward 4 (D. Williams Appoints)  
Ward 6 (Patton Appoints)

(Eligible for Reappointment/Does Not Wish to Serve Again)

VACANT  
(Beth Schauble Resigned 11-10-2021)

VACANT  
Gail Miller

Alderman Williams nominated Allison Little as Ward 4 Representative on the Library Advisory Board.

Alderswoman Patton nominated Charlie Hayes as Ward 6 Representative on the Library Advisory Board.

### **PUBLIC ART COMMISSION**

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)  
Ward 3 (Seaver Appoints)

Ward 4 (D. Williams Appoints)  
At-Large (Mayor Appoints)

At-Large (Mayor Appoints) (Harold Humphrey Resigned 11-4-2021)

VACANT  
(Beth Schauble Resigned 11-10-2021)

VACANT  
Beth Bowman  
(Not Eligible for Reappointment)

Alderman Seaver nominated Kristen Mahoney as Ward 3 Representative on the Public Art Commission.

### **YOUTH COUNCIL**

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

Youth Council Applicant Review Committee Recommends the Following Appointments:

Fred T. Foard  
Homeschool

VACANT  
VACANT

#### **C. Presentation of Petitions and Requests**

XII. Matters Not on Agenda (requires majority vote of Council to consider)

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

XIV. Closed Session Per NC General Statutes 143-318.11(a)(1)(3)(6) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

1. *Approval of Closed Session Minutes of September 7, 2021, and October 5, 2021 - NCGS §143-318.11(a)(1).*
2. *Discussion of Litigation Case Number 20CVS 2870 Lingle versus City of Hickory - NCGS §143-318.11(a)(3).*
3. *Discussion of Personnel Matter - NCGS §143-318.11(a)(6).*

XV. Adjournment

**\*Hickory City Code Section 2-56. Public Address to Council:**

**“When conducting public hearings, considering ordinances, and otherwise considering matters wherein the public has a right to be heard, when it appears that there are persons present desiring to be heard, the Mayor shall require those opposing and favoring the proposed action to identify themselves. Each side of the matter shall be given equal time. Those opposing the proposed action shall be allowed 15 minutes for presentation, followed by 15 minutes for those favoring the action, with the opponents then to have five minutes for rebuttal and the proponents to then have five minutes for surrebuttal. Those persons on either side shall have the right to divide their allotted time among them as they may choose. The Council, by majority vote, may extend the time for each side equally. On matters in which the person desiring to address the Council does not have a legal right to speak, the Council shall determine whether it will hear the person. The refusal to hear a person desiring to speak may be based upon grounds that the subject matter is confidential, that its public discussion would be illegal, that it is a matter not within the jurisdiction of the Council or for any other cause deemed sufficient by the Council. Any person allowed to speak who shall depart from the subject under discussion or who shall make personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Council shall be declared out of order by the Mayor, or by vote of the Council, and barred from speaking further before the Council unless permission to continue shall be granted by a majority vote of the Council, under such restrictions as the Council may provide.”**

**The City of Hickory holds all public meetings in accessible rooms.  
Special requests for accommodation should be submitted by individuals  
with disabilities at least 48 hours before the scheduled meeting.  
Phone Services (hearing impaired) – Call 711 or 1-800-735-2962**